

MEMORANDUM OF AGREEMENT BETWEEN

THE STATE OF TENNESSEE

AND

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

I. GENERAL

This Memorandum of Agreement (hereinafter "Agreement") establishes policies, responsibilities, and procedures pursuant to 40 CFR 271.8 for the State of Tennessee's Hazardous Waste Management Program (hereinafter "State Program") authorized under Section 3006 of the Resource Conservation and Recovery Act (hereinafter "RCRA" or "The Act") of 1976 (42 USC 6901 et seq.), as amended (Public laws 94-580, 96-482, 98-616), and the United States Environmental Protection Agency (hereinafter "EPA") Regional Office for Region 4. This Agreement further sets forth the manner in which the State and EPA will coordinate in the State's administration and enforcement of the State Program and, pending additional State authorization, EPA's administration of the provisions of the Hazardous and Solid Waste Amendments of 1984 (HSWA). For purposes of this Agreement, references to RCRA include HSWA.

This Agreement is entered into by the Governor of Tennessee, who hereby designates the Commissioner of the Tennessee Department of Environment and Conservation (hereinafter "Commissioner" or "the State") as the lead official for the State Program and the Regional Administrator, EPA Region 4 (hereinafter "Regional Administrator" or "EPA").

Nothing in this Agreement shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under RCRA. Nothing in this Agreement shall be construed to contravene any provision of 40 CFR Part 271.

The parties will review the Agreement jointly at least once a year during preparation of the annual State grant work plan or Performance Partnership Grant (hereinafter "Grant"); in connection with grant funding under section 3011 of RCRA. This Agreement may be modified upon the initiative of either party in order to ensure consistency with State program modifications made or for any other purpose mutually agreed upon. Any revisions or modifications to this Agreement must be in writing and must be signed by the Commissioner and the Regional Administrator. This Agreement will remain in effect until such time as State program authorization is withdrawn by or is voluntarily transferred to EPA according to the criteria and procedures established in 40 CFR 271.22 and 40 CFR 271.23.

This Agreement shall supersede the previous Agreement and all subsequent amendments or revisions to that Agreement. This Agreement shall be signed by the State and the Regional Administrator and shall become effective after being signed by both parties.

II. POLICY STATEMENT

Each of the parties to this Agreement is responsible for ensuring that its obligations under RCRA are met. In areas where the State has received final authorization by EPA, the State has assumed primary responsibility for implementing the authorized provisions of the RCRA hazardous waste program including maintaining all pertinent records required by and equivalent to the Federal recording procedures for the RCRA hazardous waste program, within its geographic boundaries. The State will conduct its hazardous waste program in accordance with its regulations and policies, this MOA, and EPA program policies and guidance.⁶¹ The State's records will be designated the official record for the RCRA regulated hazardous waste program universe within the State's geographic boundaries. While EPA retains responsibility for the direct implementation of those provisions of HSWA for which the State is not authorized, it is the intention of EPA and the State to coordinate the implementation of such provisions to the greatest degree possible.

EPA will oversee implementation of the authorized State Program in order to ensure full execution of the requirements of RCRA, to promote national consistency in the hazardous waste program, and to allow EPA to report to the President and Congress on the achievements of the hazardous waste program. Oversight will be accomplished by EPA through written reporting requirements, permit overview, compliance and enforcement overview, and annual review of the State's programs and records.

III. STATE PROGRAM REVIEW

The Regional Administrator will assess the State administration and enforcement of the hazardous waste program on a continuing basis for equivalence and consistency with RCRA, this Agreement, and all applicable Federal requirements and policies. This assessment will be accomplished by EPA review of information submitted by the State in accordance with this Agreement and the State grant work program, permit overview, compliance and enforcement overview, and annual review of State program activities. The Regional Administrator may also consider, as part of this regular assessment, written comments about the State's program administration and enforcement that are received from regulated persons, the public, and Federal, State and local agencies. Copies of any such comments received by the Regional Administrator will be provided to the State.

⁶¹These policies and guidance include, at a minimum, the National Program Manager Guidance, dated April 21, 2004; the Office of Enforcement and Compliance Assurance MOA guidance; revised RCRA Civil Penalty Policy, dated June 2003; the National Criteria for a Quality Hazardous Waste Program; revised Hazardous Waste Enforcement Response Policy, dated March 15, 1996; the EPA Policy on Performance Based Assistance, dated May 31, 1985, and the Top Ten OSWER References for RCRA Correction Action cited in Attachment A.

The State agrees to allow EPA access to all files and other information requested by the Regional Administrator or his or her designee and deemed necessary by EPA for reviewing State program administration and enforcement. File reviews may be conducted at any time. Program review meetings between the State and the Regional Administrator or their assignees will be scheduled at reasonable intervals, not less than annually, to review specific operating procedures and schedules, to resolve problems and to discuss mutual program concerns. These meetings will be scheduled at least fifteen days in advance unless mutually agreed to differently. A tentative agenda for the meeting will be prepared by EPA.

The State and EPA agree to develop, on an annual basis as a part of the State grant work plan, criteria for priority activities, including activities regarding handlers of hazardous waste. These criteria will be based on guidance issued by EPA in the annual Agency Operating Year Guidance, other guidance documents as may be appropriate, and the State's specific concerns.

IV. INFORMATION SHARING

A. General

This Section covers information sharing on miscellaneous elements of the RCRA program, including notification, RCRA Info data, etc. Specific information sharing requirements for the other major program elements are covered in their respective Sections: V. Permit Issuance, VI. Permit Administration, and VII. Enforcement. The attached Document Flow Tables describe the flow of documents between the State and EPA for Sections V, VI, and VII of the MOA.

Information related to Sections V and VI, Permitting, shall be sent by the State to: Chief, RCRA Programs Branch, EPA Region 4, 61 Forsyth St., Atlanta, GA 30303. EPA shall send permit related information to: Director, Division of Solid Waste Management, Tennessee Department of Environment and Conservation, 401 Church St., Nashville, Tennessee 37243-1535. Information related to Section VII, Compliance Monitoring and Enforcement, shall be sent to: Chief, RCRA Enforcement and Compliance Branch, EPA Region 4, 61 Forsyth St., Atlanta, GA 30303. EPA shall send enforcement related information to: Director, Division of Solid Waste Management, Tennessee Department of Environment and Conservation, 401 Church St., Nashville, Tennessee 37243-1535.

1. EPA will keep the State informed of the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State program. EPA will also provide general technical guidance to the State. EPA will share with the State any reports developed by EPA from the data submitted through State reporting requirements.
2. EPA agrees to furnish the State copies of any reports and data resulting from joint or independent activities. Laboratory results will be submitted to the State within ten (10) days of receipt by the RCRA Programs Branch and the Enforcement and Compliance Branch.

3. EPA will furnish the State other relevant information as requested, which the State needs to implement its approved program. Information provided to the State will be subject to the terms of 40 CFR Part 2.
4. The State agrees to inform the Regional Administrator of any proposed program changes that would affect the State's ability to implement the authorized program with as much advance notice as possible. Program changes of concern include modification of the State's legal authorities (i.e., statutes, regulations and judicial or legislative actions affecting those authorities), modifications of Memoranda of Agreement or Understanding with other agencies, and modifications of resource levels (i.e., available or budgeted personnel and funds). The State recognizes that program revisions must be made in accordance with the provisions of 40 CFR 271.21, and that until approved by EPA, revisions are not authorized as RCRA Subtitle C requirements. EPA agrees to support the State with timely review of proposed State legislation that might affect the authorized hazardous waste program.
5. EPA will forward copies of all correspondence on all facilities to the State. This will include but not be limited to inspection reports, warning letters, NOVs, civil or criminal complaints or actions, and corrective action requirements.
6. The State agrees to provide any pertinent information requested by the Regional Administrator or his or her designee within a mutually agreed upon time frame, as necessary for EPA to carry out its oversight responsibilities.
7. The State agrees to submit the following reports and documents to the Regional Administrator or his or her designee within the specified time periods: a) Comprehensive End-of-Year reports on the dates set in the Grant and; b) Additional reports and documents as specified by the Grant.
8. EPA agrees to adhere to any schedules in, or specified by, the Grant and the schedules in the Document Flow Tables.
9. EPA will furnish the State with prior notification of any contractual work to be conducted in the State of Tennessee.

B. Site Visits

EPA is responsible for maintaining reliable national data on hazardous waste management. This data is used to report to the President and Congress on the achievements of the hazardous waste program and to support EPA's regulatory development efforts. Whenever EPA determines that it needs to obtain certain information, EPA will first seek to gain this information from the States. The State of Tennessee agrees to supply the Regional Administrator with this information if readily available and as resources allow. If the State is unable to provide the information or if it is necessary to supplement the State's information, EPA may conduct a special survey or perform information collection site visits after notifying the State (with at least seven days advance notice) and inviting the State to participate in the

site visit. EPA will share with the State any reports developed by EPA as a result of such information collection.

C. Emergency Situations

Upon receipt of any information that the handling, storage, treatment, transportation, or disposal of hazardous waste is endangering human health or the environment, the party in receipt of such information shall immediately notify by telephone the other party to this Agreement of the existence of such situation. EPA shall call the Tennessee Emergency Management Agency at (800) 258-3300. The State shall call the EPA Emergency Response Branch at (404) 562-8725.

D. Confidentiality

1. Any information obtained or used in the administration of the State program shall be available to EPA upon request without restriction unless otherwise provided by the TCA §10-17-503 et seq., §68-212-109 and the rules promulgated there under. If the information has been submitted to the State under a claim of confidentiality, the State must submit that claim to EPA when providing information. Any information obtained from a State and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 CFR Part 2, Public Information.
2. EPA agrees to furnish to the State information in its files which is not submitted under a claim of confidentiality and which the State needs to implement its program. Subject to the conditions in 40 CFR Part 2, EPA will furnish to the State information submitted to EPA under a claim of confidentiality which the State needs to implement its program. All information EPA agrees to transfer to the State will be transferred in accordance with the requirements of 40 CFR Part 2. EPA will notify affected facilities when such information is sent to the State. The State will handle such information consistent with its authorized program.

E. Delisting

Since the State has adopted regulations, which allow delisting under the State regulations, a waste must be delisted by both EPA and the State until the State receives authorization. The State and EPA agree to communicate with each other and keep each other informed regarding any delisting petition received.

F. Notification

EPA and the State have jointly decided that the State will assign all EPA I.D. numbers and enter all notification data into RCRA Info. If the applicant sends a notification form (8700-12 or State equivalent) directly to EPA, EPA will forward the form to the State for the assignment of an I.D. number within 30 days of receipt. If the State receives a notification form from EPA or from the applicant, the State will assign an I.D. number to the applicant and inform the applicant of its number.

G. Variances and Waivers

The State agrees not to grant any variances or waivers pursuant to State program regulations that would make the State program less stringent than the Federal program.

H. RCRA Data Management

1. The State agrees to enter or translate data into the national RCRA data management system, RCRA Info, including non-notifiers.
2. The State is responsible for the correctness of the data it enters. The State will timely correct any State data errors revealed by RCRA Info edit reports. EPA is responsible for the correctness of the data it enters, and will timely correct any data errors that EPA has created.
3. For data entered directly into RCRA Info, the State will enter data by the 20th of every month representing the previous month's activities. (See #9 for the schedule for translating from State databases.)
4. The State will run data assessment reports specified by EPA and available on the Region 4 portion of the RCRA Info Reports Sharing menu at least once a quarter and make indicated corrections promptly.
5. The State will collect Biennial Reporting data and provide the data to EPA for loading into the national Biennial Report part of RCRA Info according to the schedule promulgated by EPA Headquarters, and the schedule in the Grant.
6. EPA will be responsible for maintenance and clean-up of all EPA data which is entered in the RCRA Info corrective action module prior to the State's authorization for HSWA corrective action.
7. EPA will assist the State in RCRA Info consulting and training as resources allow.
8. EPA will help the State maximize usefulness of RCRA Info and BRS data by enhancing existing reports or writing new report programs to fit specifications of the State as EPA resources allow. These reports will be available on the Region 4 portion of the RCRA Info shared reports menu. EPA will also assist the State in resolving Biennial Report data quality problems according to the schedule promulgated by EPA Headquarters.
9. Translating into RCRA Info. If the State translates all or any part of its RCRA Info data from a State database, the following requirements apply:
 - The State is solely responsible for meeting specifications for flat files issued by the Office of Solid Waste, EPA Headquarters. These specifications are available on the EPA Headquarters web site, in the Translator Guide document.

- The State will extract data from its State database for loading into RCRA Info and transmit its flat files to EPA at least monthly, by the 13th of each month, to allow time for loading data into RCRA Info and resolving any data errors revealed by the load process by the 20th of the month.
- The State will transmit its flat files to EPA according to a procedure agreed to by the State and EPA.
- EPA will promptly load the State's extracted data into RCRA Info and provide the State with any error lists produced by the load process. The State, with guidance from EPA, will resolve those errors promptly.

V. PERMIT ISSUANCE

A. EPA Permitting

The State and EPA have agreed to a joint permitting process (see section V.D. of this Agreement) for the joint processing and enforcement of permits for those provisions of RCRA, as amended, for which the State does not have authorization. As the State receives authorization for additional provisions of RCRA, EPA will suspend issuance of Federal permits in the State for those provisions.

When EPA promulgates standards for additional regulations mandated by HSWA, that are not covered by the State's authorized program, EPA will issue and enforce RCRA permits in the State for these new regulations until the State receives final authorization for equivalent and consistent State standards. If EPA promulgates new standards requiring a permit modification, then EPA may, pursuant to 40 CFR 270.42(b)(6)(vii), extend the time period for final approval or denial of a modification request until such time that the State receives authorization for the new standards. At the time the State program is approved in the new areas, EPA will suspend issuance of Federal permits in the State. EPA will also transfer any pending permit applications, completed permits or pertinent file information to the State within thirty days of the approval of the State program in conformance with the conditions of this Agreement.

B. EPA Overview of State Permits

EPA's overview function will focus primarily on those facilities identified by the State and EPA in the State's Multi-Year Permit Strategy, annual State Grant Work Plan and the State's Program Description. The State and EPA will usually reach concurrence on permit conditions prior to issuance of the draft permit or approval of proposed permit modifications. EPA may comment in writing on any draft permit or proposed permit modification, within forty-five days of its receipt, whether or not EPA commented on the permit application. Where EPA indicates in a comment that issuance, modification, reissuance, termination or denial of the permit would be inconsistent with the approved State program, EPA shall include in the comment:

- a. a statement of the reasons for the comment (including the section of the State law or regulations that supports the comment), and
- b. the actions that should be taken by the State in order to address the comment (including the conditions which the permit would include if it were issued by EPA).

EPA shall send a copy of its written comments to the permit applicant only in those cases where EPA and the State cannot reach agreement, pursuant to 40 CFR 271.19(b). EPA shall withdraw such comments when satisfied that the State has met or refuted its concerns and shall also provide the permit applicant with a copy of such withdrawal.

Under section 3008(a)(3) of RCRA, EPA may terminate a State-issued permit in accordance with the procedures of 40 CFR Part 124, Subpart E, or bring an enforcement action in accordance with the procedures of 40 CFR Part 22 in the case of a violation of a State program requirement. In exercising these authorities, EPA will observe the conditions established in 40 CFR 271.19(e) and any other applicable authorities.

C. State Permitting

The State is responsible for expeditiously drafting, circulating for public review and comment, issuing, modifying, reissuing and terminating RCRA permits for those hazardous waste treatment, storage and disposal facilities subject to the authorized provisions of the State's program and shall do so in a manner consistent with RCRA as amended by HSWA, this Agreement, all applicable Federal requirements, and the State's Program Description. The State agrees to issue, modify and reissue all permits subject to the authorized portions of the State's program in accordance with TCA §§68-212-101 et seq.; Tennessee Rule 1200-1-11-.07 of the Tennessee Hazardous Waste Management Regulations; Rule 1200-1-14-.02 of the Commercial Hazardous Waste Management Facilities Regulations; TCA §§4-5-101 et seq.; and Chapter 1360-4-1 of the Rules and Regulations of the State of Tennessee and to include as permit conditions all applicable provisions of Rule 1200-1-11-.06. This agreement also applies to permits issued after final authorization but for which the processing may have begun before final authorization.

The State agrees to consider all comments EPA makes on permit applications and draft permits. The State will attempt to satisfy or refute EPA's concerns on a particular permit application, proposed permit modification, or draft permit in writing before issuing the permit or making the modification.

D. Joint Permitting Process

Pursuant to section 3006(g)(1), and in accordance with RCRA, as amended, EPA has the authority to issue or deny permits for those portions of permits to facilities in Tennessee for the requirements and prohibitions in or stemming from RCRA, until the State's program is amended to reflect those requirements and prohibitions and authorization is received for the portion or portions of the program.

EPA and Tennessee hereby establish this joint permitting process for the issuance of RCRA permits in Tennessee. This joint permitting process is established in accordance with section 3006(c)(3) of RCRA. The administrative details of the joint permitting process shall be incorporated into the annual State grant work program. The duties and responsibilities of EPA and the State for joint permitting, including work sharing agreements, shall also be specified in the annual State grant work plan.

The details of the joint permitting process, as contained in the State grant work plan, shall be reviewed and revised as often as necessary, but no less often than annually to assure its continued appropriateness.

Upon authorization of the State for any of the provisions of RCRA, the specifics of the Joint Permitting Agreement as set in the annual State grant work plan shall be amended to reflect the authorization. Amendment of this Memorandum of Agreement or the execution of a separate Memorandum of Agreement may be required for authorization of any of the provisions of HSWA.

VI. PERMIT ADMINISTRATION

A. EPA

EPA will administer the RCRA permits or portions of permits it has issued to facilities in the State until they expire or are terminated. EPA will be responsible for enforcing the terms and conditions of the Federal permits while they remain in force.

B. State

The State agrees to review all hazardous waste permits which were issued under State law prior to the effective date of this Agreement in accordance with 40 CFR 271.13(d), and to modify, or revoke and reissue, such permits as necessary to require compliance with the amended State Program. The State shall notify EPA of any permits not equivalent to federal permit requirements, including any permits that have been issued but are pending administrative or judicial appeal. Except for these non-equivalent permits, once EPA has determined that the State has fulfilled the requirements of 40 CFR 271.13(d), EPA will terminate the applicable Federal permit, or Federal portion of the permit, pursuant to the procedures in 40 CFR 124.5(d), notify the State that the permit is terminated, and no longer administer those permits or portions of permits for which the State is authorized.

Where the State permit is not equivalent to federal permit requirements, the State may modify, or revoke and reissue, its permit as necessary to require compliance with its authorized program in a manner consistent with RCRA as amended by HSWA. If the State does not modify, or revoke and reissue, a permit equivalent to the federal permit, EPA will administer and enforce its permit until it expires or is terminated.

Upon the effective date of an equivalent State permit, EPA will terminate the federal permit pursuant to 40 CFR 271.8(b)(6) and 124.5 (d) or allow the federal permit to expire. EPA will notify the permittee by certified mail of its intent to terminate the federal permit, and give the permittee 30 days in which to agree or object to termination of the permit.

The State agrees to resolve all State permit appeals in a manner consistent with its authorized State program equivalent to the EPA RCRA program.

VII. CORRECTIVE ACTION

A. General

The State will conduct the RCRA Corrective Action Program in a manner that promotes rapid achievement of cleanups while protecting human health and the environment. Specifically, the State will, to the extent practicable:

1. Embrace flexible, practical, results based approaches that focus on control of human exposure and contaminated groundwater migration in the short term, with final cleanup being the long term goal.
2. Provide ready public access to information and meaningful opportunities for public involvement in the cleanup process.
3. Foster a culture of innovation, creativity, communication and technical expertise, focused on accelerating cleanups and meeting program goals.
4. Carefully consider key program guidance (and any updates) in conducting the RCRA Corrective Action Program.

EPA will assist the State with all aspects of the cleanup program and support its efforts to conduct faster, focused and more flexible RCRA cleanups.

VIII. COMPLIANCE MONITORING AND ENFORCEMENT

A. EPA

Nothing in this Agreement shall restrict EPA's right to inspect any hazardous waste generator, transporter or facility or bring enforcement action against any person believed to be in violation of the State or Federal hazardous waste program or believed to have a release of hazardous waste or constituent. Before conducting an inspection of a generator, transporter or facility, the Regional Administrator will give the State at least seven days notice of the intent to inspect in accordance with 40 CFR 271.8(b)(3)(I), and will invite the State to participate in the inspection. In case of an imminent hazard to human health and the environment, the Regional Administrator may shorten or waive the notice period.

The frequency of EPA oversight and training inspections will be specified in the annual State grant workplan. EPA will negotiate on an annual basis with the State the number or percentage of the State's compliance inspections on which EPA will accompany the State.

EPA may take enforcement action against any person determined to be in violation of RCRA in accordance with section 3008(a)(2). EPA will take enforcement action upon determining that the State has not taken timely and appropriate enforcement action or upon request by the State. Prior to issuing a compliance order under section 3008(a), EPA will give notice to the State. EPA also retains its rights to issue orders and bring actions under sections 3008(h), 3013 and 7003 of RCRA and any other applicable Federal statute.

After notice to the State, EPA may take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition of that permit.

EPA agrees to confer with the State on a routine basis, via the bi-monthly conference calls, and on an ad-hoc basis, regarding the status of enforcement cases in Tennessee. Except where imminent and substantial endangerment to human health and the environment exists, EPA agrees to inform the State, in writing and during such calls, of its desire to initiate enforcement action. EPA will use its best efforts to hold such discussions with the State at least thirty (30) days prior to initiating enforcement actions.

B. State

The State agrees to carry out a timely and effective program for monitoring compliance by generators, transporters, and facilities with applicable program requirements (see 40 CFR 271.15). As part of this program, the State will conduct inspections to assess compliance with generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements. Compliance monitoring activities and priorities will be specified in the Office of Enforcement and Compliance Assurance's bi-annual MOA guidance and the annual State grant work program and shall be consistent with all applicable Federal requirements and with the State's Program Description. State specific activities and priorities for compliance monitoring will also be included in the annual grant work plan.

The State agrees to take timely and appropriate enforcement action as defined in the 1996 Hazardous Waste Enforcement Response Policy against all persons in violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements, including violations detected by State or Federal compliance inspections. The State will maintain procedures for receiving and ensuring proper consideration of information about violations submitted by the public.

IX. AVAILABILITY OF INFORMATION

A. General

Section 3006(f) of RCRA requires an authorized state to provide for the public availability of information obtained by the State regarding facilities and sites for treatment, storage and disposal of hazardous waste. Such information must be available to the public in substantially the same manner as, and to the same degree and at least as equivalent as, that available under federal law.

B. Requests for Information

1. The State agrees to make certain materials routinely available without a formal request. Examples of these materials are final opinions or orders in case adjudication, State regulations, statements of Agency policy, administrative staff manuals affecting the public, and records prepared for routine public distribution. A requester requesting non-routine materials, i.e. file materials, will be required to complete a File Request Form.
2. The State Agency agrees to make reasonable efforts to assist a requester in identifying records being sought, and to help the requester formulate his or her request.
3. If a request for information is denied, the State agrees to provide the requester the basis for the denial and to notify the requester of the appeal procedure in TCA §10-7-505.
4. The State agrees to make the fullest possible disclosure of records to the public unless such information is exempt from disclosure in accordance with the provisions of TCA §§10-7-503 et seq., TCA §68-212-109 and Rule 1200-1-11-.01(7) and (8).
5. The charges for duplicating records will be waived:
 - (a) For records requested by either House of Congress, either House of the Tennessee General Assembly (including a committee or subcommittee) unless the request is for the benefit of the individual member of either body or a constituent, and;
 - (b) For furnishing records for the official use of Federal or State agencies.
6. A reduction or waiver of fees will be considered by the Division Director in connection with each request from a representative of the press or other communication medium, or from a public interest group. The State agrees to reduce or waive the fee if it determines that a reduction or waiver of the fee is in the public interest because furnishing the information can be considered as primarily benefitting the general public. The requester must submit such request in writing, justifying the reduction or wavier.

C. Confidentiality of Business Information

If a claim of confidentiality is asserted and cannot be resolved in the time period provided for an agency response to a request, the State agrees to notify the requester of the confidentiality claim within the maximum 20-day time limit provided for an agency response. In addition, the requester will be told that the request was initially denied in order to resolve the business confidentiality claim.

D. Oversight

1. The State agrees to keep a log of all denials of requests for information (or a file containing copies of denial letters sent to requesters), which will be made available to EPA during the State review.
2. The State agrees to keep EPA fully informed of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities, as applied to section 3006(f).

X. Biennial Reporting

The State and EPA Region 4 will work in concert to ensure that all Biennial Report data required by regulations is reported in a timely manner.

EPA will provide the State with the Biennial Report (and necessary flat file specifications) to the State by at least November 30th of the odd numbered years and will identify the minimum data which must be collected.

The State will distribute the State forms to all appropriate facilities within the State. The State will also collect the completed forms from the facilities and translate the data into the current flat file specifications.

The State will provide EPA with the appropriate data from the Biennial Report Software to satisfy the Biennial Reporting requirements and deadlines.

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT
AND CONSERVATION

BY: Betsy L. Child
BETSY L. CHILD
COMMISSIONER

DATE: 1/21/05

U.S. ENVIRONMENTAL
PROTECTION AGENCY
REGION 4

BY: J. I. Palmer, Jr.
J. I. PALMER, JR.
REGIONAL ADMINISTRATOR

DATE: DEC 15 2004

**BASE PERMITTING DOCUMENT FLOW
BETWEEN EPA AND TENNESSEE**

Item	Item Description	State Action	EPA Action
1	New and revised Part A application	Copy to EPA with monthly submittals	Review and become familiar with document
2	a) LDF <u>Operating</u> Permit Part Bs, and subsequent revisions b) Combustion Operating Permit Part Bs, including trial burn plans, and subsequent revisions, and risk assessment protocols and risk assessments c) Subpart X Part Bs, risk assessment protocols, and risk assessments	Copy to EPA within 30 days of receipt	Review and become familiar with documents. Comment as appropriate at State request
3	Copies of warning letter and first Notice of Deficiency (NOD) for all TSDFs	Copy to EPA	Review for HSWA applicability, e.g. CC
4	Copies of 2nd and subsequent NODs/Order for facilities in item 2	Within one week of preparation.	Comments, if any, w/in 30 days of receipt
5	Completeness determinations for all TSDFs	Within one week of determination	Monitor progress. Comments, if any, due within 30 days of receipt
6	Draft permits and draft modifications for TSDFs in item 2, with fact sheets and public notices	Send to EPA 21 days before start of public comment period	Comment to State w/in 30 days of receipt
7	Draft permits and draft modifications for all other TSDFs, with fact sheets and public notices	Copy to EPA	Review and comment to State/facility if cursory review indicates problems
8	Final permits and final modifications for all TSDFs	Copy to EPA	Review if EPA commented on draft
9	Emergency Permits	Notify EPA by telephone ASAP, then send copy of permit.	Monitor situation
10	Clean Closure Plans for LDFs	Send to EPA	Become familiar with plans, particularly clean closure submittals
11	Closure Plan NODs for item 10 facilities	Copy to EPA	Review and provide comments to State, if requested
12	Closure Plan public notices, approval letters and closure acceptance letters for all TSDFs	Copy to EPA	Comment during public comment period
13	Closure equivalency petitions and all associated documents	Copy to EPA	Review and provide comments to State during comment period
14	Other documents at State's request	Per State schedule	Assist State to maximum extent possible

**CORRECTIVE ACTION DOCUMENT FLOW
BETWEEN EPA AND TENNESSEE**

Item	Item Description	State Action	EPA Action
1	Visual Site Inspection notification letters sent to facilities	Copy EPA	Review letter. Accompany State, if appropriate
2	Draft RFA Reports generated by State	Send to EPA in draft form when sent to facility for comment	Comments to State w/in 30 days of receipt, or tell State will not review
3	Final RFA Reports sent to facilities	Copy EPA	Review if EPA commented on draft
4	Final EI evaluations and NCAPS worksheets	Send to EPA	Review if EPA commented on draft
5	Stabilization Evaluation Questionnaires (GPRA Universe)	Copy to EPA	Comments, if any to State w/in 30 days of receipt
6	All work plans and reports that address investigation and corrective action requirements for SWMUs at facilities with high NCAPS ranking	Copy to EPA. If necessary request comments on expedited schedule	Become familiar with documents
7	Notices of Technical Inadequacy (NOTIs) and NOV's and Orders on Corrective Action Documents in item 7	Copy EPA	EPA review, if requested
8	Remedy Selection Documents (Permit mods., Orders, SOBs, etc.)	Copy to EPA 30 days before issuance of draft. Copy of final to EPA upon issuance	Review and comment w/in 30 days of receipt of draft. Review final for conformity to EPA comments

**ENFORCEMENT AND COMPLIANCE DOCUMENT FLOW
BETWEEN EPA AND TENNESSEE**

Item	Item Description	State Action	EPA Action
1	List of all TSDFs that State will inspect each year	Send list to EPA prior to start of each year	Review list and notify State which facilities EPA will inspect jointly
2A.	State draft inspection reports (for joint EPA/State inspections)	Send to EPA for review prior to finalization; send final report to facility after receiving EPA comments	Comment to State w/in 15 days of receipt of draft report.
2B	EPA draft report for (joint EPA/State inspections) and EPA final inspection report (for independent inspections)	Review draft EPA (for joint inspection) and provide comments to EPA	Send draft report to state for comments; send final report to facility with copy to State w/in 45 days after inspection
3	Inspection reports, and any follow-up reports, warning letters, NOVs, and administrative orders, etc.	Send copy to EPA upon issuance	Monitor State Action for timeliness and appropriate action
4	All enforcement referrals from district offices to central office	Send copy to EPA	(Same as above)
5	Notice of Intent to receive hazardous waste from a foreign source pursuant to 40 CFR 265.12 and 264.12	Send copy to EPA within 5 days of receipt	Region review and take action as necessary
6	Notification to State that EPA will take enforcement action	Receive notification and take appropriate response, if required	Notification prior to issuing 3008(a) Order by telephone and writing within seven days
7	Notification to EPA of any determination that a <u>CERCLA off-site facility</u> is a SNC or may be posing significant threat to public health, welfare or the environment or otherwise affect the satisfactory operation of the facility.	State notifies EPA within 5 days of determination	EPA reviews per off-site rule, consults with State, and takes appropriate action
8	<u>For all TSDFs receiving CERCLA off site waste</u> , Inspection Reports, NOVs, Orders, Civil and or Criminal actions and corrective action requirements when significant RCRA violations occur and a formal enforcement response is initiated.	State will send within 15 days of issuance	EPA reviews per off-site rule, consults with State, and takes appropriate action

ATTACHMENT A

Top-Ten EPA Office of Solid Waste References for RCRA Corrective Action

This list represents EPA's "top-ten" recent and/or commonly used guidance documents that individuals should be aware of and turn to for guidance on implementing RCRA corrective action. This list is not all-inclusive; there are other EPA guidance documents that may be appropriate at a specific facility. Program implementers should recognize that guidance documents do not substitute for EPA's statutes or regulations; furthermore, certain guidance documents may not apply to a particular situation based upon the circumstance. In the future, EPA may change existing guidance and develop new guidance as appropriate. These top-ten items are listed in reverse chronological order. A more comprehensive list of corrective action related guidance is available at

<http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance.htm>

EPA, 2001. RCRA Cleanup Reforms II: Fostering Creative Solutions (EPA530-F-01-01; January 2001). Available at <http://www.epa.gov/epaoswer/hazwaste/ca/reforms/reforms2.pdf>.

EPA, 2000. Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls At Superfund and RCRA Corrective Action Cleanups. OSWER Policy Directive 9355.0-74-FS-P. Available at <http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/ics/icfactfinal.pdf>

EPA, 1999. Corrective Action for Solid Waste Management Units at Hazardous Waste Management Facilities (64 FR 54604, October 7) - [partial withdrawal of proposed Subpart S regulations]. Available at http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen_ca/withdrwl.htm

EPA, 1999. RCRA Cleanup Reforms (EPA530-F-99-018; July 1999). For more information, refer to <http://www.epa.gov/epaoswer/osw/factsheet1.pdf>.

EPA, 1999. Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action and Underground Storage Tank Sites (April 21). OSWER Policy Directive 9200.4-17P. Available at <http://www.epa.gov/swrust1/directiv/d9200417.htm>.

EPA, 1999. Interim Final Guidance for RCRA Corrective Action Environmental Indicators (February 5). Available at http://www.epa.gov/epaoswer/osw/ei_guida.pdf.

EPA, 1998. Management of Remediation Waste Under RCRA (EPA530-F-98-026). Available at http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/remwaste/pspd_mem.pdf

EPA, 1996. Memorandum from Steven A. Herman and Elliott P. Laws to RCRA/CERCLA Senior Policy Managers titled, "Coordination between RCRA Corrective Action and Closure and CERCLA Site Activities" (September 24). Available at http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen_ca/coordmem.pdf.

EPA, 1996. Advance Notice of Proposed Rulemaking (61 FR 19432, May 1). Available at <http://www.epa.gov/docs/fedrgstr/EPA-WASTE/1996/May/Day-01/pr-547.pdf>.

EPA, 1994. RCRA Corrective Action Plan. OSWER Directive 9902.3-2A. Available at http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen_ca/rcracap.pdf